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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,236	08/02/2005	Helmut Bacher	080637-000000US	2625
20350 7590 11/06/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER KURTZ, BENJAMIN M				
ART UNIT		PAPER NUMBER		
1797				
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11/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,236

Applicant(s)

BACHER ET AL.

Examiner

BENJAMIN KURTZ

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacher et al. US 5 308 484 in view of Schwanekamp et al. US 5 779 898.

Regarding claim 1, Bacher teaches a backwashable filtering device comprising: a housing (1) in which at least one feed channel (2) is provided and at least one delivery channel (3) is provided, and comprising at least one carrying body (4) which is arranged in the housing, carrying at least two nests of screens (8, 9) and is displaceable in the housing between a filtering position and at least one backwashing position associated with a nest of screens, wherein in the filter position distribution chambers (14, 15) arranged on the inflow side of the nests of screens are fluidically connected to the at least one flow feed channel via inflow channels (10, 11, 12, 13) and collecting chambers (16, 17) arranged on the outflow side of the nests of screen are fluidically connected to the at least one delivery channel via outflow channels and in backwashing position of the carrying body, the collecting chamber of one nest of screens is fluidically connected

through a backwashing channel (23) arranged in the carrying body to the collecting chamber of another nest of screens to be cleaned and to a backwashing outlet channel (24, 25) (fig. 2). Bacher does not teach at least one control body displaceable in the housing.

Schwanekamp teaches a backwashable filter device comprising at least one control body (30 or 4), which is displaceable in a housing relative to the carrying body, associated with each nest of screens (13) each of the control bodies forming a discharge channel (32 or 20) which, in the backwashing position, is fluidically connected to at least one backwashing outlet channel via at least one control opening (fig. 12, 13, 27, 28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the control bodies of Schwanekamp with the device of Bacher because the control body provides the advantage that in the regeneration position the zone upstream from the filter can be made perfectly free from any foreign particles so that such a regeneration is available within the shortest delay (col. 6, lines 15-27).

Regarding claim 2-6, Schwanekamp further teaches at least two control bodies (30, 17), which are displaceable independently of one another, are provided for each nest of screens, each control body being associated with a portion of the nest of screens (fig. 12); each control body is formed as a slider displaceable in its longitudinal direction and/or rotatable about its longitudinal axis, wherein the discharge channel extends in the axial direction of the slider and each control opening pierces the wall of the discharge channel (fig. 12, 13); at least one slider (4) has at least two control

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openings which are spaced apart in the longitudinal direction of the slider (fig. 27, 28); each control body is formed by a tube which is displaceably guided in a bore of the housing (fig. 13); and each backwashing outlet channel is arranged substantially centrally in relation to its associated portion of the nest of screens (fig. 12, 13).

Regarding claim 7, Bacher teaches that at least one nest of screens has perforated plates (31) between which is arranged a filter insert (8), wherein the two perforated plates are inserted into a receiving opening in the carrying body (fig. 2). Bacher does not teach the plates being curved with the convex side in the inflow side. Using a curved shape would have been obvious to one of ordinary skill in the art at the time the invention was made because it is a mere change of shape that provides a slightly larger surface area as is well known in the filter art. The configuration of the apparatus is a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration is significant, *In re Dailey*, 149 USPQ 47 (1966).

Regarding claim 8, Bacher further teaches the collecting chamber is divided into collecting chamber portions by at least one wall (21) supporting the perforated plates (fig. 2).

Response to Arguments

2. Applicant's arguments filed 9/15/08 have been fully considered but they are not persuasive. Applicant argues the control body as taught by Schwanekamp is not displaceable in the housing relative to the carrying body. The valve chamber (15) of

Schwanekamp is connected to the housing and is therefore considered to be part of the housing as each is stationary relative to one another. Regarding the control body of Schwanekamp, applicant's argument is based on the embodiment shown in figure 6 of Schwanekamp. The rejection is made over the embodiment shown in figures 12, 13, 27 and 28. In these embodiments the control body is displaceable relative to the carrying body. Applicant also argues that Schwanekamp does not teach the backwashing of the nest screen portion by portion. The recitation in the claims is a process step that does not add a structural limitation to the claim. Furthermore, Bacher teaches a portion by portion backwashing of the nest screens. The use of the control body as taught by Schwanekamp for such a purpose is obvious as detailed in the rejection above.

Allowable Subject Matter

3. Claim 9 is allowed.

The following is an examiner's statement of reasons for allowance: The prior art to Bacher teaches a filter similar to that of claim 9 but does not teach the control body as recited. Schwanekamp teaches a control body but does not teach the control body being in the flow path only in the backwashing position and out of the flow path in the filtering position. It would not have been obvious to one of ordinary skill in the art at the time of the invention to have the control body being in the flow path while backwashing but out of the flow path while filtering.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BENJAMIN KURTZ** whose telephone number is (571)272-8211. The examiner can normally be reached on Monday through Friday 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin Kurtz
Examiner
Art Unit 1797

/Benjamin Kurtz/
Examiner, Art Unit 1797
10/29/08

/Krishnan S Menon/
Primary Examiner, Art Unit 1797